

REMARKS

Claims 1-31 were pending in this application when the present Office Action was mailed (April 6, 2006). Claims 5, 8 and 27-31 have been rewritten in independent form, and claims 2 and 3 have been amended to depend from claim 5. Claims 1 and 23-26 have been cancelled. Thus, claims 2-22 and 27-31 are now pending in this application.

In the April 6, 2006 Office Action claims 9-22 were allowed; claims 1-4, 8, 23-26 and 31 were rejected; and claims 5-7 and 27-30 were held to be allowable. More specifically, the status of the rejected claims is as follows:

- (A) Claims 3 and 26 stand rejected under 35 U.S.C. 112, first paragraph;
- (B) Claims 8 and 31 stand rejected under 35 U.S.C. 112, second paragraph;
- (C) Claims 1 and 23 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,792,065 to Xue et al. ("Xue");
- (D) Claims 2 and 25 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Xue in view of U.S. Patent No. 4,802,491 to Cohen ("Cohen"); and
- (E) Claim 24 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Xue in view of U.S. Patent No. 5,827,195 to Lander ("Lander");

A. Response to Section 112 Rejection – Claims 3 and 26

Claims 3 and 26 were rejected under 35 U.S.C. § 112, first paragraph, on the grounds that "determining a heart rate according to an R-R interval and a P-Q interval" is not enabled by the disclosure. The applicant respectfully disagrees because the claims constitute part of the disclosure, and determining the heart rate according to the R-R interval and/or P-Q interval of an ECG signal is known in the art. A person skilled in the art could accordingly practice the method of claim 3 without undue experimentation. Claim 26 has been cancelled from the application, and thus claim 3 is the only pending claim subject to this rejection. Therefore, the applicant respectfully requests withdrawal of the rejection of claim 3 under Section 112, first paragraph.

B. Response to Section 112 Rejection – Claims 8 and 31

Claims 8 and 31 were rejected under 35 U.S.C. § 112, second paragraph, on the grounds that the phrase "and/or" in line 2 is confusing. The applicant respectfully disagrees with this finding because the feature of "determining an amplitude gain factor and/or a DC shift factor" means (a) determining only the amplitude gain factor, (b) determining only the DC shift factor, (c) determining the amplitude gain factor and the DC shift factor. Nonetheless, without conceding to the merits of this rejection, claims 8 and 31 have been amended to read "determining an amplitude gain factor and a DC shift factor." Therefore, the applicant respectfully requests withdrawal of the rejection of claims 8 and 31 under Section 112, second paragraph.

C. Response to Section 102 Rejection – Claims 1 and 23

Claims 1 and 23 were rejected under 35 U.S.C. § 102 over Xue. Without conceding to the merits of this rejection, claims 1 and 23 have been cancelled from the application such that this rejection is now moot.

D. Response to Section 103 Rejection – Claims 2 and 25

Claims 2 and 25 were rejected under 35 U.S.C. § 103 over the combination of Xue and Cohen. Without conceding to the merits of this rejection, claims 2 and 25 have been cancelled from the application such that this rejection is now moot.

E. Response to Section 103 Rejection – Claim 24

Claim 24 was rejected under 35 U.S.C. § 103 over the combination of Xue and Lander. Without conceding to the merits of this rejection, claim 24 has been cancelled from the application. Therefore, this rejection is now moot.

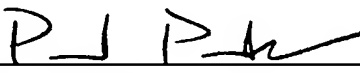
F. Conclusion

In view of the foregoing, the pending claims comply with 35 U.S.C. § 112 and are patentable over the cited art. The applicant would like to thank the Examiner for allowing claims 9-22 and indicating that claims 5-7 and 27-30 present allowable subject matter. The applicant, accordingly, requests reconsideration of the application and respectfully submits that all of the pending claims are in condition for allowance. If the

Examiner has any questions or believes a telephone conference would expedite prosecution of this application, the Examiner is encouraged to call the undersigned representative at (206) 359-3258.

Respectfully submitted,
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